

No. 3379

United States
Circuit Court of Appeals
For the Ninth Circuit.

GUISEPPI PINASCO,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court of
the Western District of Washington, Northern Division.

FILED

AUG 27 1919

F. D. MONCKTON,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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Names and Addresses of Counsel.

Messrs. TUCKER & HYLAND, Attorneys for
Plaintiff in Error.

307 Lowman Bldg., Seattle, Washington.

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ington.

ROBT. C. SAUNDERS, Esq., Attorney for Defend-
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CHARLOTTE KOLMITZ, Attorney for Defendant
in Error,

310 Federal Bldg., Seattle, Washington.

[1*]

*United States District Court, Western District of
Washington, Northern Division.*

November Term, 1918.

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

*Page number appearing at foot of page of original certified Transcript
of Record.

Indictment.

The United States of America,
Western District of Washington,
Northern Division,—ss.

The grand jurors of the United States of America, being duly selected, impaneled, sworn and charged to inquire within and for the Northern Division of the Western District of Washington, upon their oaths present:

COUNT I.

That GUISEPPI PINASCO on the third day of January, one thousand nine hundred and nineteen, in the house occupied by the said Guisseppi Pinasco on the premises described as the "Prato Gardens," situated one-fourth mile north of the Duwamish River and about ten rods west of the Pacific Highway in the Northern Division of the Western District of Washington, and within the jurisdiction of the United States District Court for said division and district, did then and there unlawfully and feloniously carry on the business of a distiller without having given bond as required by law; contrary to the form of the statute in [2] such case made and provided and against the peace and dignity of the United States of America.

COUNT II.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That GUISEPPI PINASCO on the third day of January, one thousand nine hundred and nineteen, in the house occupied by the said Guisseppi Pinasco

on the premises described as the "Prato Gardens," situated one-fourth mile north of the Duwamish River and about ten rods west of the Pacific Highway in the Northern Division of the Western District of Washington, and within the jurisdiction of the United States District Court for said division and district, and within the Internal Revenue Collection District of Washington, being then engaged in and then intending to be engaged in the business of a distiller, did then and there wilfully, knowingly and unlawfully fail to give notice in writing to the Collector of Internal Revenue for the collection district aforesaid, as required by Section 3259 of the Revised Statutes of the United States; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

COUNT III.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present: [3]

That GUISEPPI PINASCO on the third day of January, one thousand nine hundred and nineteen, in the house occupied by the said Guiseppi Pinasco on the premises described as the "Prato Gardens," situated one-fourth mile north of the Duwamish River and about ten rods west of the Pacific Highway in the Northern Division of the Western District of Washington, and within the jurisdiction of the United States District Court for said division and district, and within the Internal Revenue Collection District of Washington, unlawfully did make and ferment a certain mash fit for distillation, to wit,

forty gallons of raisin mash, in a certain building, to wit, the dwelling-house of the said Guiseppi Pinasco, not then and there a distillery duly authorized according to law; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

COUNT IV.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That GUISEPPI PINASCO on the third day of January, one thousand nine hundred and nineteen, in the house occupied by the said Guiseppi Pinasco on the premises described as the "Prato Gardens," situated one-fourth mile north of the Duwamish River and about ten rods west of the Pacific Highway in the Northern Division of the Western District of Washington, and within the jurisdiction of the United States District Court for said division and district, and within the Internal Revenue Collection District of [4] Washington, unlawfully did use a certain still for the purpose of distilling in a certain dwelling-house there situate; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

ROBT. C. SAUNDERS,
United States Attorney.
BEN L. MOORE,
Assistant United States Attorney.

[Indorsed]: Indictment for Violation Sections 3281, 3259, 3282 and 3266. A True Bill. W. P.

Graham, Foreman Grand Jury. Presented to the Court by the Foreman of the Grand Jury in open court, in the presence of the Grand Jury, and filed in the U. S. District Court. Mar. 14, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [5]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Amended Motion to Quash Indictment.

Comes now the defendant, Guiseppi Pinasco, by and through Tucker & Hyland, his attorneys, and moves the Court to quash the first count of the indictment herein, for the following reasons, to wit:

I.

That said count is indefinite, uncertain and insufficient in law, and it does not state specific or sufficient facts in law to constitute a crime and offense against the Government of the United States. That the Act of Congress under which said offense is sought to be charged is repealed by the Act of March 3, 1917, commonly known as the Reed Amendment.

II.

That said second count in said indictment is in-

definite, uncertain and insufficient in law, and it does not state specific or sufficient facts in law to constitute a crime and offense against the Government of the United States. That the Act of Congress under which said offense is sought to be charged is repealed by the Act of March 3, 1917, commonly known as the Reed Amendment. [6]

III.

And moves the Court to quash the third count of said indictment, for the reason that same is indefinite, uncertain and insufficient in law, and does not state specific or sufficient facts in law to constitute a crime and offense against the Government of the United States. That the Act of Congress under which said offense is sought to be charged is repealed by the Act of March 3, 1917, commonly known as the Reed Amendment.

IV.

And moves the Court to quash the fourth count of said indictment, for the reason that same is indefinite, uncertain and insufficient in law, and does not state specific or sufficient facts in law to constitute a crime and offense against the Government of the United States. That the Act of Congress under which said offense is sought to be charged is repealed by the Act of March 3, 1917, commonly known as the Reed Amendment.

V.

Said defendant moves to quash the whole of said indictment, on the ground and for the reason that there is now commenced and pending in the United States District Court for the Western District of

Washington, Northern Division, a proceeding entitled, "United States of America, Libelant, v. One Machine for Corking Bottles, One Blow-Torch, One Remington 12-gauge repeating shotgun of slide action, Two 50-pound boxes of Buena Fruita, brand dried raisins, Two copper kettles, One rubber hose, Eleven hundred dollars in currency, One cashier's check for \$600.00 unendorsed, One one-man cross-cut saw, One copper still, twenty-gallon capacity, [7] together with still, cap and coil complete," being No. 4537, said proceeding being a proceeding of condemnation of property of the defendant, Guiseppi Pinasco, for the same offense charged and set forth in each of the counts in said indictment herein. Reference is hereby made to the files, records and proceedings in the office of the clerk of said court for certainty, and this motion is based upon the files, records and proceedings in said cause, as well as upon the proceedings in the above-entitled action.

TUCKER & HYLAND,

Attorneys for Defendant.

Service of within Amended Motion this 4th day of Apl., 1919, and receipt of a copy thereof, admitted.

ROBT. C. SAUNDERS,

D.

Attorney for Plaintiff.

[Indorsed]: Amended Motion to Quash Indictment. Filed in the United States District Court, Western District of Washington, Northern Division. Apr. 5, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [8]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Order Overruling Motion to Quash Indictment.

ARRAIGNMENT—MOTION TO QUASH IN-
DICTMENT AND PLEA.

Now, on this 7th day of April, 1919, the above-named defendant comes into court for arraignment, accompanied by his attorney Wilmon Tucker. Motion is made to quash indictment, which is argued by respective counsel. Motion is denied and defendant enters a plea of not guilty to the charges against him. Trial is set for April 30, 1919.

Journal 7, Page 327. [9]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Motion to Require Government to Elect.

Comes now Guiseppi Pinasco, the defendant above named, by Tucker & Hyland and Geo. H. Rummens, his attorneys, and moves the Court as follows:

I.

That the plaintiff above named be required to elect whether it will proceed with and try the defendant under the indictment in the above-entitled cause, or whether it will proceed with and try the proceeding now pending in the above-entitled court in cause number 4537, entitled:

“United States of America, Libelant, vs. One Machine for Corking Bottles, One blow-torch, One Remington 12-gauge repeating shotgun of slide action, Two 50-pound boxes of Buena Fruita brand dried raisins, Two copper kettles, One rubber hose, Eleven hundred dollars in currency, One cashier’s check for \$600.00, unendorsed, One one-man cross-cut saw, One copper still, twenty-gallon capacity, together with still, cap and coil complete.”

This motion is made and based upon the records and files in this cause, being cause number 4593, and upon the records and files in cause number 4537, hereinabove described, and to [10] all of which reference is hereby made for certainty.

II.

That in the event of the preceding motion being denied, and in the alternative, defendant by his counsel aforesaid, moves the Court for an order requiring the Government to elect whether it will proceed to

try defendant on Count I, Count II, Count III or Count IV.

That defendant submits and contends that the Government does not have the right to try said defendant upon more than one of said counts in said indictment, for the reason that all of the pretended offenses charged in said Count II, Count III and Count IV, are embraced and contained in and are but elements going to constitute the offense charged in the foregoing Count I.

This motion is made and based upon the records and files in cause number 4593.

TUCKER & HYLAND,
GEO. H. RUMMENS,
Attorneys for Defendant.

[Indorsed]: Motion to Require Government to Elect. Filed in the United States District Court, Western District of Washington, Northern Division. May 8, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [11]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Trial—Order Denying Motion to Require Government to Elect.

Now, on this 8th day of May, 1919, the above-entitled cause comes on for trial, Robt. C. Saunders and Charlotte Kolmitz appearing for the plaintiff, and Wilmon Tucker and Geo. H. Rummens for the defendant said defendant being in court in his own proper person. Motion is filed by defendant to require the plaintiff to elect whether to proceed with and try defendant under indictment herein or whether it will proceed with and try cause No. 4537 in this court. Motion is denied and exception noted. Motion is filed by defendant to require plaintiff to elect whether it will proceed to try defendant on Count I, Count II, Count III or Count IV of the indictment, and motion is denied and exception allowed. A jury being called come and answer to their names as follows: Ezra T. Pope, W. T. Gray, Berman Schoenfeld, James F. Parks, Albert J. Schoephaester, Charles A. Bailey, E. H. Ahrens, M. J. Hurssen, Charles H. Roach, Winfield S. Riggs, J. N. Johnson and Louis Shorett, twelve good and lawful men duly empaneled and sworn. Whereupon plaintiff's witness Claude W. Estes is sworn and examined. Defendant objects to the introduction of any evidence on Counts I, II, III and IV on the ground that they do not state facts sufficient to constitute a crime. Denied and exception allowed. Plaintiff's witnesses Kenneth L. Webb, G. Gordon, Carl Prado and W. T. Beeks are sworn and examined and exhibits Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20

and 21 are introduced. Defendant's witness E. R. Tobey is sworn and examined. And now the hour of adjournment having arrived, [12] by consent of parties it is ordered that this cause be continued until ten o'clock to-morrow morning, and the jurors having been cautioned, it is ordered that they be allowed to separate until that hour.

Journal 7, page 356. [13]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Trial (Continued).

Now, on this day, May 9, 1919, the hour of trial having arrived, attorneys for both sides present, the call of the jury is waived, all being present in their box, whereupon witnesses for plaintiff are sworn and examined as follows: W. T. Beeks, recalled; James H. Woods, W. R. Jarrell, C. E. Rix, Grant L. Miller, W. W. Anderson and Ray W. Clough, and exhibit No. 1 introduced, at which time the plaintiff rests. George H. Rummens, for defendant, moves the Court for a directed verdict of not guilty on Counts I, II, III and IV of the indictment, and each of them on

the ground that none of them contain statements of fact constituting a crime, and that the evidence adduced does not establish a crime. Motion is denied and exception allowed. Defendant moves the Court to require the plaintiff to elect upon which of the counts of the indictment it will proceed to prosecute. Motion denied. Exception allowed. Defendant's witnesses Joe Columbus, G. B. Perelli, Joe Bessire, and A. Segale are sworn and examined, at which time the defendant rests. George H. Rummens, for defendant, renews his motion for a directed verdict of "not guilty" as above set forth. Motion denied and exception allowed. The cause is argued to the jury by both sides, and the jury being instructed by the Court retire in charge of sworn bailiffs for deliberation at 11:50 A. M. It is ordered that the jury and two bailiffs be fed at Government expense. And now on this same day the jury comes into open court, to wit, at 2:00 P. M. The call of the jury is waived, all present in their box. A verdict is returned as [14] follows: "We, the jury in the above-entitled cause, find the defendant Giuseppe Pinasco is guilty as charged in Count I of the indictment herein; and further find the defendant Giuseppe Pinasco is guilty as charged in Count II of the indictment herein; and further find the defendant Giuseppe Pinasco is guilty as charged in County III of the indictment herein; and further find the defendant Giuseppe Pinasco is guilty as charged in Count IV of the indictment herein. Berman Schoenfeld, Foreman." The verdict is ordered filed and the jury discharged from further consideration of case and excused for the

term. Defendant is allowed to go on his present bond. Defendant is granted 42 days within which to file any motion or exception he may desire.

Journal 7, page 357. [15]

*In the District Court of the United States for the
Western District of Washington.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Verdict.

We, the jury in the above-entitled cause find the defendant Giuseppi Pinasco is guilty as charged in Count I of the indictment herein; and further find the defendant Giuseppi Pinasco is guilty as charged in Count II of the indictment herein; and further find the defendant Giuseppi Pinasco is guilty as charged in Count III of the indictment herein; and further find the defendant Giuseppi Pinasco is guilty as charged in Count IV of the indictment herein.

BERMAN SCHOENFELD,

Foreman.

[Indorsed]: Verdict. Filed in the United States District Court, Western District of Washington, Northern Division, May 9, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [16]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Motion in Arrest of Judgment.

Comes now the defendant, Guiseppi Pinasco, and moves the Court to arrest the judgment on the indictment herein, upon which the defendant was convicted, and upon each and every count thereof, upon the ground and for the reason that the facts therein stated do not constitute a crime or offense against the laws or statutes of the United States.

WILMON TUCKER,
GEO. H. RUMMENS,
Attorneys for Defendant.

[Indorsed]: Motion in Arrest of Judgment. Filed in the United States District Court, Western District of Washington, Northern Division, June 16, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.
[17]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Order Overruling Motion in Arrest of Judgment.

And now on this day there having come for hearing the motion of the defendant for an arrest of judgment herein, and the Court having heard the argument of Robert C. Saunders, Esq., counsel for the Government, and of George H. Rummens, Esq., counsel for the defendant, and being fully advised in the premises;

IT IS NOW CONSIDERED, ORDERED AND ADJUDGED that the said motion be and the same is hereby overruled as to Counts I, II and IV, and sustained as to Count III, to all of which the defendant excepts, and the exception is allowed.

Done in open court this 16th day of June, 1919.

EDWARD E. CUSHMAN,

Judge.

O. K.—ROBT. C. SAUNDERS,

U. S. Dist. Atty.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division, June 16, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [18]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Sentence.

Comes now on this 16th day of June, 1919, the said defendant Giuseppe Pinasco into open court for sentence, and being informed by the Court of the charges herein against him and of his conviction of record herein, he is asked whether he has any legal cause to show why sentence should not be passed and judgment had against him, he nothing says save as he before hath said. Wherefore, by reason of the law and the premises, it is considered, ordered and adjudged by the Court that the defendant is guilty of violating Secs. 3281, 3259 and 3266, R. S., and that he be punished by being imprisoned in the King County Jail, or in such other place as may be hereafter provided for the imprisonment of offenders against the laws of the United States, for the term of thirty days on Count I, and that he pay a fine of \$100.00 on Count I, and that execution issue therefor; and that he pay a fine of \$100.00 on Count II, and that execution issue therefor; and that he be confined in the King County Jail, or in such other place as may be provided for the imprisonment of offenders

against the laws of the United States, for the term of six months on Count IV, to run concurrently with Count I, and that he pay a fine of \$1,000.00 on Count IV; and the defendant is to be further imprisoned in the said County Jail until said fines are paid or until he shall be otherwise discharged by due process of law.

Judgment and Decree Book No. 2, page 371. [19]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPE PINASCO,

Defendant.

Order Fixing Appeal and Supersedeas Bond.

And now on this day the above-named defendant Guiseppi Pinasco, at the time of sentence, having given notice of his intention of applying for a writ of error to the Circuit Court of Appeals and having at the same time asked the Court for an order fixing bond to supersede the judgment of the Court, and the Court being fully advised in the premises;

IT IS NOW CONSIDERED, ORDERED AND ADJUDGED, that the appeal and supersedeas bond herein be and the same is hereby fixed in the sum of *Two Thousand* (\$2,000.00); and it further appearing

that there is now in the hands of the clerk of this court the sum of *Two Thousand* (\$2,000.00) as bond for the appearance and trial of said defendant;

IT IS NOW ORDERED that said sum of money be retained by the Clerk of this Court as and for the appeal and supersedeas bond of the said defendant herein.

Done in open court this 16th day of June, 1919.

EDWARD E. CUSHMAN,

Judge.

O. K.—ROBT. C. SAUNDERS,

U. S. Dist. Atty.

[Indorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. June 16, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [20]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPE PINASCO,

Defendant.

Recognizance on Writ of Error to Circuit Court of Appeals.

United States of America,
Western District of Washington,
Northern Division,—ss.

Be it remembered that on this 16th day of June, 1919, before me, F. M. Harshberger, Clerk of the court aforesaid, personally came Guiseppe Pinasco, as principal, and acknowledged himself to owe the United States of America the full sum of Two Thousand (\$2,000.00) Dollars, herewith deposited with said court in cash, if default be made in the condition following, to wit: The condition of this recognizance is such that whereas the said Guiseppe Pinasco has been by the above-entitled court sentenced to pay a fine and to imprisonment, as set forth in the judgment of sentence herein, and whereas said Guiseppe Pinasco has in open court at the time sentence was pronounced given notice of his intention to apply for a Writ of Error to the Circuit Court of Appeals, and for an order fixing his bond thereon and the Court having fixed said appeal and supersedeas bond at the sum of Two Thousand (\$2,000) Dollars;

NOW, THEREFORE, if the said Guiseppe Pinasco shall appear before said United — Circuit Court of Appeals for the Ninth Circuit and shall prosecute his Writ of Error, and shall pay, satisfy and perform the aforesaid judgment of sentence, and shall pay, satisfy and perform any judgment of the said United States Circuit Court of Appeals to be entered in said cause or any judgment [21] which

said Circuit Court of Appeals may *ordered* made or entered by said United States District Court for Western District of Washington, Northern Division, and shall at all times hold himself amenable to and abide by all orders and process of the aforesaid District Court and the aforesaid Circuit Court of Appeals, and shall render himself in execution of any judgment therein, and shall not depart from the jurisdiction of said United States District Court without leave thereof, then this recognizance shall be void; otherwise to remain in full force and virtue.

GUISEPPE PINASCO.

Taken and acknowledged before me this 16th day of June, 1919.

S. E. LEITCH,
Deputy Clerk of the United States District Court for
the Western District of Washington.

O. K.—ROBT. C. SAUNDERS,

U. S. Dist. Atty.

Foregoing bond is hereby approved.

Dated June 16, 1919.

EDWARD E. CUSHMAN,

Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. June 16, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [22]

*In the District Court of the United States for the
Western District of Washington, Northern
Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Bill of Exceptions.

BE IT REMEMBERED: That heretofore, and on the 8th day of May, 1919, this cause came on for trial before the Honorable Edward E. Cushman, Judge, presiding; the plaintiff appeared by Robert C. Saunders, United States District Attorney, and Charlotte Kolmitz, Assistant United States District Attorney; the defendant appeared in person and by his attorneys: Wilmon Tucker and George H. Rumens.

WHEREUPON, the following proceedings were had, to wit:

Prior to the calling and impaneling of the jury, the defendant interposed a motion requiring the Government to elect whether it would proceed against the defendant upon the Indictment pending herein or whether it would proceed with and try a proceeding now pending in the same court in Cause No. 4537, entitled: "The United States of America, Libelant, v. One Machine for Corking Bottles, etc.";

WHEREUPON, the Court overruled and denied

said motion, and to the said order of the Court the defendant asked and was allowed an exception;

WHEREUPON, a jury was duly impaneled and sworn [23] and the opening statement of the Government was made;

WHEREUPON, a witness was called by the Government and duly sworn;

WHEREUPON, the defendant objected to the introduction of any testimony as to Count No. I of the Indictment for the reason and upon the ground that Count No. I does not state facts sufficient to constitute a crime;

WHEREUPON, the Court denied and overruled said objection, and the defendant asked and was allowed an exception to said ruling;

WHEREUPON, the defendant objected to the introduction of any testimony as to Count No. II of the Indictment for the reason and upon the ground that Count No. II does not state facts sufficient to constitute a crime;

WHEREUPON, the Court denied and overruled said objection, and the defendant asked and was allowed an exception to said ruling;

WHEREUPON, the defendant objected to the introduction of any testimony as to Count No. III of the Indictment for the reason and upon the ground that Count No. III does not state facts sufficient to constitute a crime;

WHEREUPON, the Court denied and overruled said objection, and the defendant asked and was allowed an exception to said ruling;

WHEREUPON, the defendant objected to the

[24] introduction of any testimony as to Count No. IV of the Indictment for the reason and upon the ground that Count No. IV does not state facts sufficient to constitute a crime;

WHEREUPON, the Court denied and overruled said objection and the defendant asked and was allowed an exception to said ruling;

WHEREAS, over the said objections and the said exceptions, the Government then offered testimony which was received and which tended to prove that on January 3, 1919, in the house occupied by the said Guiseppi Pinasco, on the premises described as the "Prato Gardens," situated one-fourth mile north of the Duwamish River and about ten rods west of the Pacific Highway, in the Northern Division of the Western District of Washington, the defendant, Guiseppi Pinasco, did carry on the business of a distiller without having given a bond of a distiller; that the said defendant on January 3, 1919, in the house occupied by him on the premises described as the "Prato Gardens," situated one-fourth mile north of the Duwamish River and about ten rods west of the Pacific Highway, in the Northern Division of the Western District of Washington and within the Internal Revenue Collection District of Washington, being then and there engaged in and intending to be engaged in the business of a distiller, did then and there fail to give notice in writing to the Collector of Internal Revenue, for the collection district aforesaid; that on the third day of January, 1919, in the house occupied by the said Guiseppi Pinasco, on the premises described as the "Prato Gardens," situated

one-fourth mile north of the [25] Duwamish River and about ten rods west of the Pacific Highway, in the Northern Division of the Western District of Washington, and within the Internal Revenue Collection District of Washington, the said defendant, Guiseppi Pinasco, did make and ferment a certain mash fit for distillation, to wit, forty gallons of raisin mash, in a certain building, to wit, the dwelling-house of the said defendant, said house not then and there being an authorized distillery; that the defendant, Guiseppi Pinasco, on the 3d day of January, 1919, in the house occupied by the said Guiseppi Pinasco, on the premises described as the "Prato Gardens," situated one-fourth mile north of the Duwamish River and about ten rods west of the Pacific Highway, in the Northern Division of the Western District of Washington, and within the Internal Revenue Collection District of Washington, did use a certain still for the purpose of distilling in a certain dwelling-house there situated;

WHEREUPON, the Government rested.

WHEREUPON, the defendant moved the Court for an order instructing and directing the jury to return a verdict of not guilty as to Count One of the Indictment upon the ground and for the reason that the Indictment does not state facts sufficient to constitute a crime, and that there is not sufficient evidence to warrant a conviction under said Count One of said Indictment;

WHEREUPON, the Court overruled said objection, and denied said motion, and refused to give said instruction, to which ruling the defendant then and

there asked and was allowed an exception ;

WHEREUPON, the defendant moved the Court for [26] an order instructing and directing the jury to return a verdict of not guilty as to Count II of the Indictment upon the ground and for the reason that the Indictment does not state facts sufficient to constitute a crime, and that there is not sufficient evidence to warrant a conviction under said Count Two of said Indictment ;

WHEREUPON, the Court overruled said objection, and denied said motion, and refused to give said instruction, to which ruling the defendant then and there asked and was allowed an exception ;

WHEREUPON, the defendant moved the Court for an order instructing and directing the jury to return a verdict of not guilty as to Count III of the Indictment upon the ground and for the reason that the Indictment does not state facts sufficient to constitute a crime, and that there is not sufficient evidence to warrant a conviction under said Court III of said Indictment ;

WHEREUPON, the Court overruled said objection, and denied said motion, and refused to give said instruction, to which ruling the defendant then and there asked and was allowed an exception ;

WHEREUPON, the defendant moved the Court for an order instructing and directing the jury to return a verdict of not guilty as to Count IV of the Indictment upon the ground and for the reason that the Indictment does not state facts sufficient to constitute a crime, and that there is not sufficient evi-

dence to warrant a conviction under said Count IV of said Indictment;

WHEREUPON, the Court overruled said objection, and denied said motion, and refused to give said [27] instruction, to which ruling the defendant then and there asked and was allowed an exception;

WHEREUPON, the defendant moved the Court to instruct the jury to return a verdict of not guilty upon Counts I, II, III and IV of the Indictment, upon the ground and for the reason that none of them, either taken separately or all together, state facts sufficient to constitute a crime, and that there is no fact proven sufficient to carry the case to the jury on all or any of said counts of said Indictment, and the defendant entitled to an affirmative instruction to the jury of not guilty;

WHEREUPON, the Court overruled said motion, and denied said request, and refused to give said instruction, to which ruling and said order the defendant asked and was allowed an exception;

WHEREUPON, the defendant moved the Court for an order to require the Government to then and there elect whether it should proceed to prosecute upon Count I, Count II, Count III or Count IV of the Indictment, and to require the Government to elect which of said count, or counts, other than the whole number, it shall proceed to prosecute under;

WHEREUPON, the Court refused to grant said motion, and overruled and denied the same, and to this ruling the defendant asked and was allowed an exception;

WHEREUPON, the defendant offered testimony

which was received, and which tended to disprove the allegations of the Indictment and to controvert the proof offered and received on behalf of the Government;

WHEREUPON, both sides rested. [28]

WHEREUPON, the defendant moved the Court to instruct the jury to return a verdict of not guilty upon Count I of the Indictment upon the ground and for the reason that Count I of said Indictment does not state facts sufficient to constitute a crime; that the testimony does not show the defendant to be guilty of any crime, and that there are not sufficient facts to warrant the submission of the cause to the jury;

WHEREUPON, the Court overruled said motion, denied the same, and refused to give said instruction to the jury, and to the ruling of the Court the defendant asked and was allowed an exception;

WHEREUPON, the defendant moved the Court to instruct the jury to return a verdict of not guilty upon Count II of the Indictment upon the ground and for the reason that Count II of said Indictment does not state facts sufficient to constitute a crime; that the testimony does not show the defendant to be guilty of any crime and that there are not sufficient facts to warrant the submission of the cause to the jury;

WHEREUPON, the Court overruled said motion, denied the same, and refused to give said instruction to the jury, and to the ruling of the Court the defendant asked and was allowed an exception;

WHEREUPON, the defendant moved the Court to instruct the jury to return a verdict of not guilty

upon Count III of the Indictment upon the ground and for the reason that Count III of said Indictment does not state facts sufficient to constitute a crime; that the testimony does not show the defendant to be guilty of any crime, and [29] that there are not sufficient facts to warrant the submission of the cause to the jury;

WHEREUPON, the Court overruled said motion, denied the same, and refused to give said instruction to the jury, and to the ruling of the Court the defendant asked and was allowed an exception;

WHEREUPON, the defendant moved the Court to instruct the jury to return a verdict of not guilty upon Count IV of the Indictment upon the ground and for the reason that Count IV of said Indictment does not state facts sufficient to constitute a crime; that the testimony does not show the defendant to be guilty of any crime, and that there are not sufficient facts to warrant the submission of the cause to the jury;

WHEREUPON, the Court overruled said motion, denied the same, and refused to give said instruction to the jury, and to the ruling of the Court the defendant asked and was allowed an exception;

WHEREUPON, the defendant moved the Court to instruct the jury to return a verdict of not guilty upon each and every count of the Indictment, and upon all of them, for the reasons theretofore stated;

WHEREUPON, the Court overruled said motion and denied the same, and refused to give said instruction, and to the ruling of the Court, the defendant asked and was allowed an exception;

WHEREUPON, the Court having instructed the jury, and the jury having retired for deliberation, the jury on May 9, 1919, returned and filed herein a verdict finding the defendant to be guilty on Count No. I, Count No. II, Count No. III and Count No. IV of the Indictment. [30]

I hereby certify that within the time fixed by the ruling of this Court and the stipulation of the respective parties in the within entitled criminal action, the foregoing Bill of Exceptions was duly presented to me for settlement and allowance. It contains all of the material facts in the cause necessary to a full understanding thereof, and

IT IS HEREBY, on this 1st day of July, 1919, SETTLED AND ALLOWED as the Bill of Exceptions in this cause.

Dated this 1st day of July, 1919.

EDWARD E. CUSHMAN,
Judge.

United States of America,
Western District of Washington,—ss.

Due and legal service of the within Bill of Exceptions is admitted this 24th day of June, 1919.

ROBT. C. SAUNDERS,
United States Attorney.

[Indorsed]: Bill of Exceptions. Filed in the United States District Court, Western District of Washington, Northern Division, July 1, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.
[31]

*In the District Court of the United States for the
Western District of Washington, Northern
Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs. .

GUISEPPI PINASCO,

Defendant.

Petition for a Writ of Error.

To the Above-entitled Court and to the Honorable
EDWARD E. CUSHMAN, Judge of the United
States District Court aforesaid:

Now comes the above-named defendant, Guiseppi
Pinasco, and by his attorneys, Tucker & Hyland and
George H. Rummens, respectfully shows:

That heretofore and on the 9th day of May, 1919,
a jury in the above-entitled court and cause returned
and filed herein a verdict finding the above-named
defendant guilty upon Counts I, II, III and IV of
an Indictment, theretofore filed in the above-entitled
court and cause against the defendant herein, on the
14th day of March, 1919; that thereafter and on the
16th day of June, 1919, the defendant was, by the
order and sentence of the above-entitled court and
in said cause, sentenced to pay a fine of One Hundred
Dollars and to serve a term of thirty days in the King
County Jail on Count I of said Indictment; to pay a
fine of One Hundred Dollars on Count II of said
Indictment; and to serve a term of six months in said

King County Jail on Count IV of said Indictment, [32] said sentence to run concurrently with the sentence pronounced as aforesaid upon said Count I of said Indictment;

Your petitioner herein, the above-named defendant, feeling himself aggrieved by the said verdict, the said judgment and the said sentence of the Court, entered herein as aforesaid, and by the orders and rulings of said Court and proceedings therein, now herewith petitions this Court for an order allowing him to prosecute a writ of error from said judgment and sentence to the Circuit Court of Appeals of the United States for the Ninth Circuit, under the laws of the United States and in accordance with the procedure of said Court in such cases made and provided; to the end that the said proceedings as herein recited and as more fully set forth in the assignments of error presented herewith may be reviewed, and the manifest error appearing upon the face of the record of said proceedings may be by said Circuit Court of Appeals corrected; and that for said purposes a writ of error and citation thereon should issue as by the law and the ruling of the Court is provided;

Whereupon, the premises considered, your petitioner prays that a writ of error do issue; to the end that the said proceedings of the United States District Court for the said Western District of Washington may be reviewed and corrected, the said errors in said record being herewith assigned and presented herewith; that pending the final determination of said writ of error by said Appellate

Court, an order be made and entered herein that all further proceedings shall be suspended and stayed until the determination of said writ of error by said [33] Circuit Court of Appeals.

WILMON TUCKER and
GEO. H. RUMMENS,

Attorneys for the Petitioner, the Plaintiff in Error.

The writ of error is granted on this, the 1st day of July, 1919, a supersedeas bond having been fixed by the Court in the sum of Two Thousand Dollars, which has been given, filed herein and in all things approved.

EDWARD E. CUSHMAN,
Judge.

United States of America,
Western District of Washington,—ss.

Due and legal service of the within Petition for a Writ of Error is admitted this 24th day of June, 1919.

ROBT. C. SAUNDERS,
United States Attorney.

[Indorsed]: Petition for a Writ of Error. Filed in the United States District Court, Western District of Washington, Northern Division. June 24, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

[34]

*In the District Court of the United States for the
Western District of Washington, Northern
Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Assignments of Error.

Comes now the above-named defendant, Guisseppi Pinasco, and in connection with his petition for a writ of error in this cause, submitted and filed herein and herewith, assigns the following errors which the defendant avers and says occurred at the trial of the above-entitled cause, in the above-entitled court, during the proceedings had therein and upon which he relies to reverse, set aside and correct the judgment and sentence entered herein, and says that there is manifest error appearing upon the face of the record in this:

I.

That the Court erred in overruling the demurrer of the defendant to Count No. I of said Indictment and in not sustaining said demurrer to said Count I of said Indictment.

II.

That the Court erred in overruling the demurrer of the defendant to Count No. II of said Indictment

and in not sustaining said demurrer to said Count II of said Indictment. [35]

III.

That the Court erred in overruling the demurrer of the defendant to Count No. III of said Indictment and in not sustaining said demurrer to said Count III of said Indictment.

IV.

That the Court erred in overruling the demurrer of the defendant to Count No. IV of said Indictment and in not sustaining said demurrer to said Count IV of said Indictment.

V.

That the Court erred in overruling the demurrer of the defendant to said Indictment and in holding the defendant to trial on account thereof.

VI.

That the Court erred in overruling and in not sustaining the amended motion to quash the first count of said Indictment for the reasons that said count is indefinite, uncertain, insufficient in law, and does not state specific or sufficient facts in law to constitute a crime or offense against the Government of the United States or the laws thereof; that the Act of Congress under which said offense is sought to be charged had, prior to the alleged commission of said offense and the return of said Indictment and the filing thereof, been by the Congress of the United States repealed both expressly and by implication.

VII.

That the Court erred in overruling and in not sustaining the amended motion to quash the second

count of said Indictment for the reasons that said count is [36] indefinite, uncertain, insufficient in law, and does not state specific or sufficient facts in law to constitute a crime or offense against the Government of the United States or the laws thereof; that the Act of Congress under which said offense is sought to be charged had, prior to the alleged commission of said offense and the return of said Indictment and the filing thereof, been by the Congress of the United States repealed both expressly and by implication.

VIII.

That the Court erred in overruling and in not sustaining the amended motion to quash the third count of said Indictment for the reasons that said count is indefinite, uncertain, insufficient in law, and does not state specific or sufficient facts in law to constitute a crime or offense against the Government of the United States or the laws thereof; that the Act of Congress under which said offense is sought to be charged had, prior to the alleged commission of said offense and the return of said Indictment and the filing thereof, been by the Congress of the United States repealed both expressly and by implication.

IX.

That the Court erred in overruling and in not sustaining the amended motion to quash the fourth count of said Indictment for the reasons that said count is indefinite, uncertain, insufficient in law, and does not state specific or sufficient facts in law to constitute a crime or offense against the Government of the United States or the laws thereof; that the Act

of Congress under which said offense is sought to be charged had, prior to the alleged commission of said offense and the return of said Indictment and the filing thereof, been by the Congress of the United [37] States repealed both expressly and by implication.

X.

That the Court erred in overruling the amended motion of the defendant to quash the whole of said Indictment in its entirety on the ground and for the reason that there was then and there pending in the United States District Court for the Western District of Washington, Northern Division, a proceeding then and there entitled: "United States of America, Libelant, vs. One Machine for Corking Bottles, One Blow-torch, One Remington 12-guage repeating Shotgun of Slide Action, Two 50-Pound Boxes of Buena Fruta Brand Dried Raisins, Two Copper Kettles, One Rubber Hose, Eleven Hundred Dollars in Currency, One Cashier's Check for \$600.00 unendorsed, One One-man Cross-cut Saw, One Copper Still, Twenty-gallon Capacity, Together with Still, Cap and Coil Complete," being No. 4537, said proceeding being a proceeding of condemnation of property of the defendant, Guiseppi Pinasco, for the same offense charged and set forth in each of the counts in said Indictment herein; and reference is hereby expressly made to the files, records and proceedings in the office of the clerk of said court for certainty, and this motion was based and this assignment predicated upon the said files, records and proceedings in said cause and upon the proceedings in

the above-entitled criminal action.

XI.

That the Court erred in making and entering its order herein prior to the reception of any testimony upon the part of the Government in overruling the motion of the defendant to require the Government to elect the ground and cause upon which the Government would proceed to trial; [38] that the Government should be required to elect and say whether it would then proceed with and try the defendant under the Indictment in said cause, or whether it would proceed with and try the proceeding pending in the above-entitled court and cause, known as Cause No. 4537, entitled: "United States of America, Libelant, vs. One Machine for Corking Bottles, etc."

XII.

That the Court erred, immediately prior to the introduction of any testimony upon the part of the Government, in overruling the objection of the defendant to the introduction of any testimony on the part of the Government in relation to Count No. 1 of said Indictment for the reason and upon the ground that said Count I does not state facts sufficient to constitute a crime.

XIII.

That the Court erred, immediately prior to the introduction of any testimony upon the part of the Government, in overruling the objection of the defendant to the introduction of any testimony on the part of the Government in relation to Count No. II of said Indictment for the reason and upon the

ground that said Count II does not state facts sufficient to constitute a crime.

XIV.

That the Court erred in, immediately prior to the introduction of any testimony upon the part of the Government, overruling the objection of the defendant to the introduction of any testimony on the part of the Government in relation to Count No. III of said Indictment for the reason and upon the ground that said Count III does not state facts sufficient to constitute a crime. [39]

XV.

That the Court erred in, immediately prior to the introduction of any testimony upon the part of the Government, overruling the objection of the defendant to the introduction of any testimony on the part of the Government in relation to Count No. IV of said Indictment for the reason and upon the ground that said Count IV does not state facts sufficient to constitute a crime.

XVI.

That at the conclusion of the evidence of the Government, the Court erred in overruling the motion of the defendant that the Court should then and there instruct the jury to return a verdict of not guilty as to Count I of the Indictment for the reason and upon the ground that said Count I does not state facts sufficient to constitute a crime, and that there is not sufficient evidence to warrant a conviction thereon.

XVII.

That at the conclusion of the evidence of the Government, the Court erred in overruling the motion of

the defendant that the Court should then and there instruct the jury to return a verdict of not guilty as to Count I of the Indictment for the reason and upon upon the ground that said Count II does not state facts sufficient to constitute a crime, and that there is not sufficient evidence to warrant a conviction thereon.

XVIII.

That at the conclusion of the evidence of the Government, the Court erred in overruling the motion of the defendant that the Court should then and there instruct the jury to return a verdict of not guilty as to Count III [40] of the Indictment for the reason and upon the ground that said Count III does not state facts sufficient to constitute a crime, and that there is not sufficient evidence to warrant a conviction thereon.

XIX.

That at the conclusion of the evidence of the Government, the Court erred in overruling the motion of the defendant that the Court should then and there instruct the jury to return a verdict of not guilty as to Count IV of the Indictment for the reason and upon the ground that said Count IV does not state facts sufficient to constitute a crime, and that there is not sufficient evidence to warrant a conviction thereon.

XX.

That at the conclusion of all of the testimony offered on behalf of both the Government and the defendant, the Court erred in overruling the motion of the defendant to instruct the jury to return a verdict of not guilty upon Count II of the Indictment upon

the ground and for the reason that Count I of the Indictment does not state facts sufficient to constitute a crime, and that the testimony does not show the defendant to be guilty of any crime.

XXI.

That at the conclusion of all of the testimony offered on behalf of both the Government and the defendant, the Court erred in overruling the motion of the defendant to instruct the jury to return a verdict of not guilty upon Count II of the Indictment upon the ground and for the reason that Count II of the Indictment does not state facts sufficient to constitute a crime, and that the [41] testimony does not show the defendant to be guilty of any crime.

XXII.

That at the conclusion of all of the testimony offered on behalf of both the Government and the defendant, the Court erred in overruling the motion of the defendant to instruct the jury to return a verdict of not guilty upon Count III of the Indictment upon the ground and for the reason that Count III of the Indictment does not state facts sufficient to constitute a crime, and that the testimony does not show the defendant to be guilty of any crime.

XXIII.

That at the conclusion of all of the testimony offered on behalf of both the Government and the defendant, the Court erred in overruling the motion of the defendant to instruct the jury to return a verdict of not guilty upon Count IV of the Indictment upon the ground and for the reason that Count IV of the Indictment does not state facts sufficient to constitute

a crime, and that the testimony does not show the defendant to be guilty of any crime.

XXIV.

That the Court erred in overruling the motion interposed by the defendant in arrest of judgment on the Indictment herein upon which the defendant was convicted and upon each and every count thereof, upon the ground and for the reason that the facts therein stated do not constitute a crime or offense against the laws of the United States.

XXV.

That the Court erred in sentencing the defendant [42] upon Count I of the Indictment.

XXVI.

That the Court erred in sentencing the defendant upon Count II of the Indictment.

XXVII.

That the Court erred in sentencing the defendant upon Count IV of the Indictment.

And as to each, every and all of said assignments of error, the defendant says that at the time of the making of the order, or ruling of the Court complained of, the defendant duly asked and was allowed an exception to the ruling and the order of the Court.

WILMON TUCKER and
GEO. H. RUMMENS,

Attorneys for the Defendant Herein, the Plaintiff in
Error.

United States of America,
Western District of Washington,—ss.

Due and legal service of the within Assignments of

Error is admitted this 24th day of June, 1919.

ROBT. C. SAUNDERS,
United States Attorney.

[Indorsed]: Assignments of Error. Filed in the United States District Court, Western District of Washington, Northern Division. June 24, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.
[43]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPI PINASCO,

Defendant.

Praeceptum for Transcript of Record.

To the Clerk of the United States District Court for the Western District of Washington, Northern Division:

In making up the record in the above-entitled cause for the United States Circuit Court of Appeals, you are directed to include in the Transcript the following documents:

1. The indictment.
2. ~~The demurrer.~~
3. ~~The order of the Court overruling the demurrer.~~

4. The amended motion to quash the indictment.
5. The order of the Court overruling this motion.
6. The journal entry showing the plea of not guilty.
7. The motion to require the Government to elect.
8. The order of the Court denying said motion.
9. The journal entry of the Court showing the record of the first day's proceedings at the trial, showing that the jury was impaneled. [44]
10. The journal entry showing the return of the verdict with a copy of said verdict as filed.
11. The motion in arrest of judgment.
12. The order of the Court denying said motion.
13. The judgment and sentence of the Court.
14. The order of the Court fixing the appeal and supersedeas bond.
15. The appeal bond and supersedeas bond.
16. The bill of exceptions.
17. The petition for a writ of error with order allowing the writ endorsed thereon.
18. The assignments of error.
19. The writ of error.
20. The citation on the writ of error.
21. The acceptance of service of the citation.
22. The clerk's certificate.
23. This praecipe.

Dated at Seattle, Washington, this third day of July, 1919.

WILMON TUCKER and
GEO. H. RUMMENS,
Attorneys for the Defendant.

Service of the above praecipe is hereby accepted this 3d day of July, 1919.

ROBT. C. SAUNDERS,
By CHARLOTTE KOLMITZ,

Asst. U. S. Atty.,
United States District Attorney for the Western District of Washington, Northern Division. [45]

We waive the provisions of the Act approved February 13, 1911, and direct that you forward type-written transcript to the Circuit Court of Appeals for printing as provided under Rule 105 of this court.

WILMON TUCKER,
GEORGE H. RUMMENS,
For Plaintiff in Error.

[Indorsed]: Praecipe. Filed in the United States District Court, Western District of Washington, Northern Division. July 3, 1919. F. M. Harshberger, Clerk. By S. E. Leitch Deputy. [46]

*United States District Court, Western District of
Washington, Northern Division.*

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUISEPPE PINASCO,

Defendant.

**Certificate of Clerk U. S. District Court to Transcript
of Record.**

United States of America,
Western District of Washington,—ss.

I, F. M. Harshberger, Clerk of the United States District Court, for the Western District of Washington, do hereby certify this typewritten transcript of record consisting of pages numbered from 1 to 46, inclusive, to be a full, true, correct and complete copy of so much of the record, papers and other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel filed and shown herein, as the same remain of record and on file in the office of the clerk of said District Court, and that the same constitute the record on return to said Writ of Error herein from the judgment of said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred and paid in my office by or on behalf of the plaintiff in error for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit: [47]

Clerk's fee (Sec. 828, R. S. U. S.), for making record, certificate or return, 93 folios at 15¢.....	\$13.95
Certificate of Clerk to transcript of record—	
4 folios at 15¢.....	.60
Seal to said Certificate.....	.20

I hereby certify that the above cost for preparing and certifying record amounting to \$14.75 has been paid to me by attorneys for plaintiff in error.

I further certify that I hereto attach and herewith transmit the original Writ of Error and original Citation issued in this cause.

IN WITNESS WHEREOF I have hereto set my hand and affixed the seal of said District Court at Seattle, in said District, this 30th day of July, 1919.

[Seal]

F. M. HARSHBERGER,

Clerk United States District Court. [48]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

No. 4593.

GUISEPPI PINASCO,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

Writ of Error.

The United States of America,—ss.

The President of the United States of America to
the Honorable EDWARD E. CUSHMAN,
Judge of the District Court of the Western Dis-
trict of Washington, Northern Division, and to
said Court, GREETING:

Because in the record and proceedings, as also
in the rendition of the judgment and sentence in the

District Court of the United States for the Western District of Washington, Northern Division, in a cause pending therein, wherein the United States of America was plaintiff and Guisseppi Pinasco was defendant, a manifest error happened and occurred to the damage of the said Guisseppi Pinasco, the above-named plaintiff in error, as by his petition and complaint doth appear, and we being willing that error, if any there hath been, should be corrected, and full and speedy justice be done to the parties aforesaid in this behalf, do command you that under your seal you send the record and proceedings aforesaid, with all things concerning the same and [49] pertaining thereto, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ so that you may have the same at San Francisco, California, where said court is sitting, within thirty days of the date hereof, in the said Circuit Court of Appeals to be then and there held, and the records and proceedings aforesaid being inspected, the said United States Court of Appeals may cause further to be done therein to correct the error what of right, and according to the law and the custom of the United States should be done.

WITNESS the Honorable EDWARD DOUGLASS WHITE, the Chief Justice of the United States, this the 1st day of July, 1919.

[Seal]

F. M. HARSHBERGER,

Clerk.

By S. E. Leitch,

Deputy.

Allowed this the 1st day of July, 1919.

EDWARD E. CUSHMAN,

United States Judge.

Received a copy of the within Writ of Error this 1st day of July, 1919.

ROBT. C. SAUNDERS,

Attorney for United States. [50]

[Endorsed]: Original. In the United States Circuit Court of Appeals for the Ninth Circuit. Guiseppi Pinasco, Plaintiff in Error vs. The United States of America, Defendant in Error. No. ——. Writ of Error. Filed in the United States District Court, Western District of Washington, Northern Division. Jul. 1, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [51]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 4593.

UNITED STATES OF AMERICA,

Plaintiff and Defendant in Error,

vs.

GUISEPPI PINASCO,

Defendant and Plaintiff in Error.

Citation.

To the United States of America and to ROBERT C. SAUNDERS, United States District Attorney, in the Western District of Washington: You are hereby cited and admonished to be and

appear in the United States Circuit Court of Appeals, for the Ninth Circuit to be held in the city of San Francisco, State of California, on the 1st day of August, 1919, pursuant to an order allowing a writ of error, filed and entered in the Clerk's office of the District Court of the United States, for the Western District of Washington, Northern Division, on a final judgment and sentence signed, filed and entered on the 16th day of June, 1919, in a certain action and cause, being No. 4593, and entitled, "The United States of America vs. Guiseppi Pinasco," to show cause, if any there be, why the judgment and sentence against the said Guiseppi Pinasco, the plaintiff in error herein, as in said order allowing the said writ mentioned doth appear, should not be corrected, and why justice should not be done [52] in the premises.

WITNESS the Honorable EDWARD E. CUSHMAN, District Judge for the Western District of Washington, Northern Division this 1st day of July, 1919.

EDWARD E. CUSHMAN,
United States District Judge for Western District
of Washington, Northern Division.

[Seal] Attest: F. M. HARSHBERGER,
Clerk.

By S. E. Leitch,
Deputy. [53]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 4593.

UNITED STATES OF AMERICA,
Plaintiff and Defendant in Error,
vs.

GUISEPPI PINASCO,
Defendant and Plaintiff in Error.

Acceptance of Service of Citation.

The undersigned, attorney of record for the above-named plaintiff, the defendant in error, hereby admits service of citation and service of the writ of error herein, and hereby enters appearance for the United States of America, in the United States Circuit Court of Appeals, for the Ninth Circuit.

Dated this 1st day of July, 1919.

ROBT. C. SAUNDERS,
Attorney for the United States of America, the
Above-named Plaintiff, the Defendant in Error.

[54]

[Endorsed]: Original. In the District Court of the United States for the Western District of Washington, Northern Division. United States of America, Plaintiff and Defendant in Error, vs. Guiseppi Pinasco, Defendant and Plaintiff in Error. No. 4593. Citation. Filed in the United States District Court, Western District of Washington, Northern Division. Jul. 1, 1919. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [55]

[Endorsed]: No. 3379. United States Circuit Court of Appeals for the Ninth Circuit. Guisseppi Pinasco, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Western District of Washington, Northern Division.

Filed August 15, 1919.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

In the Circuit Court of Appeals for the Ninth Circuit.

No. — (Not Docketed).

GUISEPPI PINASCO,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

**Stipulation Fixing Time to File Writ of Error and
Citation and Docket Cause.**

The plaintiff in error having sued out his writ of error, served the same and the citation on July 1, 1919,—

IT IS STIPULATED, by and between respective counsel, that the plaintiff in error may have and take until August 15, 1919, including all of said day, to file in the Circuit Court of Appeals, for the Ninth

Circuit, at San Francisco, California, the said writ of error, the citation thereon, the transcript of record in said cause, and cause the said case to be docketed.

Dated at Seattle, Washington, this, the 22d day of July, 1919.

Dated San Francisco, Cal., July 25, 1919.

ROBT. C. SAUNDERS,
United States Attorney.
TUCKER & HYLAND,
Attorneys for Plaintiff in Error.

So ordered.

W. H. HUNT,
United States Circuit Judge.

[Endorsed]: No. 3379. In the Circuit Court of Appeals for the Ninth Circuit. Guiseppi Pinasco, Plaintiff in Error, vs. The United States of America, Defendant in Error. Stipulation. Filed Jul. 25, 1919. F. D. Monckton, Clerk. Refiled Aug. 15, 1919. F. D. Monckton, Clerk.

